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**THE
DEIORIO LAW GROUP, PLLC**

800 Westchester Avenue, Suite S-608
Rye Brook, New York 10573

Telephone: (914) 696-5555
Fax: (914) 696-0450

January 29, 2024

VIA CM/ECF ONLY

Hon. Nelson S. Roman
United States Courthouse
300 Quarropas Street
White Plains, New York 10601

Re: Travelers Casualty Insurance Company of America v. BJB Construction Corp. et al.
Civil Case No. 7:22-cv-05496 -NSR-JCM

Dear Judge Roman:

This firm represents the Defendant BJB Construction Corp. ("BJB") in the above-captioned matter. I am writing in regard to the Plaintiff's Motion for Summary Judgment.

Pursuant to the Court's scheduling order, the Defendants' Opposition papers were due to be served on January 16, 2024. On behalf of BJB, I served two Affirmations with exhibits on the Plaintiff and the co-Defendant on January 16, 2024. However, the Memorandum of Law to be served on behalf of BJB, which was completed on January 16, 2024, was inadvertently not included in the service. The Memorandum of Law was also not included in the hard copies of the opposition sent to Your Honor. The error was not discovered until yesterday.

I respectfully request that the Court permit this error to be corrected and allow a late service of BJB's Memorandum of Law in Opposition to be effectuated. In fact, I served a copy of the Memorandum of Law yesterday on both Mr. Martin (counsel for the Plaintiff) and Mr. Matty (counsel for the co-Defendant). I have represented to counsel, and now represent to the Court, that the Memorandum of Law which was sent to counsel yesterday is exactly the same version which was extant on January 16, 2024 with no additions or changes.

I have spoken with counsel for both Travelers and for Mount Kisco. Mr. Matty, representing the co-Defendant Mount Kisco, has no objection to this request. Mr. Martin, representing the Plaintiff, also has no objection *provided* he is accorded an additional week to file reply papers – which would revise the date for the Plaintiff to serve the reply and for all parties to file their papers from January 31 to February 7, 2024.

It is respectfully requested that the Court: (1) permit BJB to serve the Memorandum of Law upon counsel as of today, (2) permit BJB to send a hard copy of the Memorandum of Law to Your Honor by express mail, (3) permit the Plaintiff to serve its reply papers to both the


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Defendants' oppositions on or before February 7, 2024, and (4) permit all parties to file their papers on February 7, 2024.

I apologize for this error. I thank counsel for their professional courtesies, and I thank the Court for its considerations.

Respectfully,




Jan A. Marcus, Esq.

Def. BJB Construction Corp.'s request is GRANTED. Def. BJB is permitted to serve its Memorandum of Law as of today, January 30, 2024, and provide a hard copy via mail to Chambers, *nunc pro hunc*. Plaintiff is directed to serve its reply papers to both Defendants, and all of the parties are to file their respective papers, on Feb. 8, 2024. The Clerk of Court is respectfully directed to terminate the motion at ECF No. 43.

**Dated: January 30, 2024
White Plains, NY**

SO ORDERED:



HON. NELSON S. ROMAN
UNITED STATES DISTRICT JUDGE